

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AL-FATAH STEWART,

Petitioner,

-against-

WARDEN CAPUTO,

Respondent.

22-CV-8546 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Petitioner, who is currently detained at the Anna M. Kross Center on Rikers Island, brings this *pro se* petition for a writ of *habeas corpus* under 28 U.S.C. § 2241, challenging the constitutionality of his ongoing criminal proceedings in the Supreme Court of the State of New York, New York County. For the following reasons, the petition is denied.

Petitioner has previously submitted to this court a substantially similar Section 2241 petition raising the same challenges to his ongoing New York County criminal proceedings. That case is pending before the Honorable Gregory H. Woods of this Court under docket number 22-CV-7853 (GHW). Because this petition raises the same claims, no useful purpose would be served by the filing and litigation of this duplicate action. Therefore, this petition is dismissed without prejudice to Petitioner's pending case under docket number 22-CV-7853 (GHW). If Petitioner has any new claims that he wants to raise that are not already included in that pending action, he should submit an amended petition with those claims in that action, to the extent permitted by Rule 15 of the Federal Rules of Civil Procedure.

In light of the Court's belief that Petitioner may have submitted this duplicate petition in error, the Court directs the Clerk of Court to return to Petitioner the \$5.00 filing fee that he paid for this action.

**CONCLUSOIN**

The Court denies Petitioner's Section 2241 petition as duplicative of No. 22-CV-7853 (GHW).

The Court directs the Clerk of Court to return to Petitioner the \$5.00 filing fee for this action.

Because the petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is further directed to enter judgment in this case.

SO ORDERED.

Dated: December 16, 2022  
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN  
Chief United States District Judge